IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2843 and 3208 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PIPARVADIYA AASHEDMAHAMAD USMAN

Versus

COLLECTOR

Appearance:

MR DA SURANI for Petitioners

Mr AD Oza GP with Mr. HH Patel AGP for respondents.

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 02/05/2000

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. H.H. Patel learned AGP appearing for the respondents. On the facts and in the circumstances of the case, the matter is taken up for final hearing today itself.

Heard Mr. Surani learned Advocate for the petitioners and Mr. A.D.Oza,learned G.P. for respondents NO. 1 and 2.

In an identical petition being special civil application No. 2188 of 2000 and 2388 of 2000, while issuing the rule, following interim directions were issued by this court on 31.3.2000:

"By way of ad interim relief, in view of the mandatory provisions of section 25H of the ID Act, respondent NO. 1 and 2 are directed to consider the cases of the petitioners in both these petitions for appointment in respect of the very same category before appointing any new person or fresh hand. Respondent No. 1 and 2 shall complete this exercise within one week from today and during that period, the respondent no. 1 and 2 shall not make appointment or recruitment of any fresh hand who has not been retrenched earlier. Notice as to interim relief returnable on 10th April, 2000"

The issues involved in the present petitions are identical to the issues raised in the aforesaid petitions and, therefore, these petitions also could be disposed of in terms of the orders passed by this court in aforesaid two special civil applications.

Therefore, having heard the learned advocates for the parties, these petitions are disposed of by making clarification that the respondents nos. 1 and 2 will consider the cases of the petitioners and they will be employed by the respondents No. 1 and 2 by keeping in mind the mandatory provisios of section 25H of the Industrial Disputes Act, 1947. It is also clarified that such appointments made in favour of the petitioners herein by respondent No. 1 and 2 will not create any better and favourable rights in favour of the petitioners and that the petitioners will not be entitled to claim any right of continuity and/or regularization against the respondent no. 1 and 2 on the basis of such appointments that may be made by respondent No. 1 and 2. It is made clear that such appointments that may be made by respondent no. 1 and 2 pursuant to these orders shall be without prejudice to the rights and contentions of the

parties in respect of the reference which is pending before the labour court, Surendranagar and that it will be open for the respective parties to raise all contentions available in law. The petitioners are directed to file undertaking before the respondents nos. 1 and 2 to the effect that they will not claim any right on the basis of these appointments that may be made by respondents nos. 1 and 2 pursuant to these orders and that such appointments shall be without prejudice to their rights and contentions in reference in respect of earlier termination which is pending before the labour court, Surendranagar and that they will abide by the same. It is also clarified that after the completion of the work, if the question of termination of service of the petitioners herein arise, then, the same shall be done by respondents nos. 1 and 2 by following the seniority amongst the persons who are similarly situated. The undertaking as aforesaid shall be filed by the petitioners within one week from today and thereafter, the respondent No. 1 and 2 shall issue necessary appointment orders within the period of 3 days in favour of the petitioners.

Subject to the aforesaid observations and directions, both these petitions shall stand disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

2.5.2000. (H.K.Rathod,J.)

Vyas